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DIMOCK STRATTON LLP
20 QUEEN STREET WEST SUITE 3202, BOX 102
TORONTO ON M5H 3R3 CA CANADA

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JUN 14 2007

In re Application of	:	OFFICE OF PETITIONS
Robert Walther and Detlef	:	
Stoetzel	:	DECISION ON RENEWED PETITION
Application No. 10/757,564	:	UNDER 37 C.F.R. §1.47(A)
Filed: January 15, 2004	:	
Attorney Docket Number: 1406-	:	
23/MBE	:	
Title: METHOD OF MANUFACTURING	:	
A FUEL FILLER TUBE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.47(a), filed on March 15, 2007.

The above-identified application was filed on January 15, 2004, identifying Robert Walther and Detlef Stoetzel as joint inventors. The declaration which was submitted on filing was not executed by either of the two joint inventors. On April 19, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, indicating that replacement drawings and a fully executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

On September 20, 2004, a response was received in the Office, which included a partially executed declaration, the surcharge associated with the late filing of the same, an affidavit, replacement drawings, a petition fee, and a three-month extension of time (it is noted that September 19, 2004 fell on a Sunday).

A notice of incomplete reply was mailed on October 7, 2004, which did not extend the period for reply, and indicated that the declaration was not fully executed. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 20, 2004. A notice of abandonment was mailed on March 27, 2006.

Two petitions were concurrently filed on May 30, 2006, pursuant to 37 C.F.R. §§1.47(a) and 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn. The petition pursuant to Rule §1.181 and granted and the petition pursuant to Rule §1.47(a) was dismissed via the mailing of a decision on September 15, 2006 for failure to meet requirements (4) and (5) of Rule §1.47(a).

With this renewed petition, Petitioner has submitted a four-month extension of time to make timely this response. Petitioner has further submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. Petitioner has thus met the fourth requirement.

Regarding the fifth requirement of Rule §1.47(a), the decision on the original petition set forth:

Petitioner has not submitted a declaration which complies with 37 C.F.R. §1.63. The declaration submitted with the present petition contains non-initialed and non-dated changes by inventor Stoetzel¹.

With this renewed petition, Petitioner has asserted that a newly executed declaration is not required. Petitioner will note that MPEP §605.04(a) explicitly sets forth:

The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Emphasis added.

It follows that the fifth requirement has not been met.

For the above reasons, the petition under 37 C.F.R. §1.47(a) must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a)

¹ See 37 C.F.R. §1.52(c)(1) and MPEP §605.04(a).

are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C §704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁵. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number.

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).